

PATRICA JONES,  
  
Plaintiff,  
  
vs.  
  
MICHAEL J. ASTRUE,  
Commissioner of Social Security,  
  
Defendant.

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Case No. 11-1265-CV-W-ODS

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She found Plaintiff could perform a wide range of sedentary work and was further limited to only occasional reaching with her right arm. The ALJ posed hypothetical questions to a vocational expert based on this RFC, and based on the expert's testimony the ALJ found Plaintiff could not return to her past relevant work but could perform other work existing in the national economy.

Plaintiff argues the RFC is inaccurate insofar as it relates to her physical abilities. If this were the only issue in the case, the Commissioner's decision would be affirmed because the Court's review reveals that substantial evidence in the Record as a whole supports the ALJ's findings with respect to Plaintiff's physical capabilities. However, Plaintiff also points out that the RFC omits any reference to limitations caused by depression. Plaintiff suggests this omission is logically inconsistent with the ALJ's determination that Plaintiff's depression was severe, given that this finding means the ALJ found depression imposes more than a minimal limitation on Plaintiff's work-related abilities. The Commissioner seeks to discount this inconsistency, suggesting "the ALJ gave Plaintiff the benefit of the doubt in finding depression to be a severe impairment (Tr. 13)." Defendant's Brief at 7. The ALJ does not suggest she is giving Plaintiff the benefit of the doubt, and the Court does not know what this means anyway. If the ALJ finds a mental condition imposes more than a minimal limitation, the ALJ cannot ignore the effects of that finding, or characterize it as a "less than complete finding," by averring that the finding is made merely to give a claimant the benefit of the doubt. At a minimum, if the ALJ truly believes that a severe impairment imposes no work-related limitations, the ALJ should explain this finding. Here, after finding depression was a severe impairment that did not meet or equal a listed impairment, the ALJ did not discuss the issue again.

It may be that Plaintiff's depression imposes work-related limitations that, when added to her physical limitations, render her incapable of working. It also may be that if the effects of Plaintiff's depression are added to the RFC, Plaintiff can still perform work in the national economy. This determination must be made by the ALJ in the first instance,

so the Commissioner's final decision is reversed and the case is remanded for further proceedings.

IT IS SO ORDERED.

DATE: November 5, 2012

/s/ Ortrie D. Smith  
ORTRIE D. SMITH, SENIOR JUDGE  
UNITED STATES DISTRICT COURT